

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PACIFIC PLAZA LLC, a Washington Limited
Liability Company,

No.

Plaintiff.

**NOTICE OF REMOVAL TO FEDERAL
COURT PURSUANT TO 28 U.S.C. §§ 1441
& 1446**

LANDMARK AMERICAN INSURANCE COMPANY, a foreign insurer; IRONSHORE SPECIALTY INSURANCE COMPANY, a foreign insurer; STEADFAST INSURANCE COMPANY, a foreign insurer; FALLS LAKE FIRE AND CASUALTY COMPANY, a foreign insurer; COMMERCIAL INDUSTRIAL BUILDING OWNERS ALLIANCE, INC., a foreign corporation; and CLAIMS ADJUSTING GROUP, INC., a foreign corporation,

Defendants.

TO: Judges of the United States District Court
for the Western District of Washington at Seattle:

AND TO: Attorney for Plaintiff

Defendants Landmark American Insurance Company (“Landmark”), Ironshore Specialty Insurance Company, (“Ironshore”), Steadfast Insurance Company (“Steadfast”), Falls Lake Fire and Casualty Company (“Falls Lake”), Commercial Industrial Building

1 Owners Alliance, Inc. (“CIBA”), and Claims Adjusting Group, Inc., (“CAGI”) (collectively
 2 referred to as “Defendants”) through their counsel of record, hereby provide notice of removal
 3 pursuant to 28 U.S.C. § 1332(a) and (c), § 1441(a), and § 1446(a), (b) and (d). The grounds
 4 for removal are as follows:

5 1. This notice of removal is brought pursuant to 28 U.S.C. §§1441(a), 1446 and
 6 Western District CR 101(a) and (b). This Court has original jurisdiction pursuant to 28 U.S.C.
 7 §1332(a) and (c) on the basis that there is complete diversity of citizenship between the
 8 parties and the amount in controversy is in excess of \$75,000. Venue is proper in the U.S.
 9 District Court for the Western District of Washington at Seattle because the plaintiff’s action
 10 was filed in Snohomish County, Washington. *See* 28 USC §1441(a); LCR 3(e).

12 2. The Plaintiff filed this action in the Superior Court of the State of Washington
 13 for Pierce County on September 9, 2022. Silk Dec., **Exhibit 1** (copies of the Summons and
 14 Complaint). Service of the Summons and Complaint was made on Defendants, as follows:

16 a. Landmark, on September 14, 2022 via Washington’s Office of the
 17 Insurance Commissioner. *See* Insurance Commissioner’s Certificate of Insurance, Silk Dec.,
 18 **Exhibit 2.**

19 b. Ironshore, on September 14, 2022. *See* Insurance Commissioner’s
 20 Certificate of Insurance, Silk Dec., **Exhibit 3.**

21 c. Steadfast, on September 14, 2022. *See* Insurance Commissioner’s
 22 Certificate of Insurance, Silk Dec., **Exhibit 4.**

24 d. Falls Lake, on September 14, 2022. *See* Insurance Commissioner’s
 25 Certificate of Insurance, Silk Dec., **Exhibit 5.**

26 e. CIBA, on September 19, 2022 via CT Corporation System in Olympia,

1 Washington. *See* Service of Process Transmittal Summary, Silk Dec., **Exhibit 6.**

2 f. CAGI, on September 19, 2022. *See* Affidavit of Service, Silk Dec.,

3 **Exhibit 7.**

4 3. Defendants are all foreign corporations, as follows:

5 a. Landmark is a foreign corporation and currently is incorporated under
6 the laws of the State of New Hampshire with its principal place of business in Atlanta,
7 Georgia and therefore is a citizen of a state other than Washington.

8 b. Ironshore is a foreign corporation and currently is incorporated under
9 the laws of the State of Arizona with its principal place of business in Boston, Massachusetts
10 and therefore is a citizen of a state other than Washington.

11 c. Steadfast is a foreign corporation and currently is incorporated under
12 the laws of the State of Illinois with its principal place of business in Schaumburg, Illinois and
13 therefore is a citizen of a state other than Washington.

14 d. Falls Lake is a foreign corporation and currently is incorporated under
15 the laws of the State of California with its principal place of business in Raleigh, North
16 Carolina and therefore is a citizen of a state other than Washington.

17 e. CIBA is a foreign corporation and currently is incorporated under the
18 laws of the State of California with its principal place of business in Glendale, California and
19 therefore is a citizen of a state other than Washington.

20 f. CAGI is a foreign corporation and currently is incorporated under the
21 laws of the State of California with its principal place of business in Glendale, California and
22 therefore is a citizen of a state other than Washington.

1 4. Upon information and belief, Plaintiff, at the time the Complaint was filed, and
 2 currently is a Limited Liability Company organized under the laws of the state of Washington.
 3 *See* Complaint at Silk Dec., **Exhibit 1**, Paragraph 1.1. There is complete diversity of
 4 citizenship between the parties pursuant to 28 U.S.C. §1332 (a) and (c).

5 5. On October 3, 2022, the Plaintiff filed a First Amended Complaint, a true and
 6 correct copy of which is attached to the Silk Declaration as **Exhibit 8**. The First Amended
 7 Complaint includes the same allegations and claims that were in the Complaint, and adds a
 8 claim under the Insurance Fair Conduct Act, as set forth in Paragraphs 4.23 – 4.29.

9 6. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) because the
 10 amount in controversy exceeds \$75,000, exclusive of interest and costs, for reasons which
 11 include, but are not limited to, the following:

12 a. In its First Amended Complaint, the Plaintiff alleges claims for
 13 insurance payments and asserts claims for alleged breach of contract, violation of the
 14 Consumer Protection Act violation of the Insurance Fair Conduct Act and bad faith. *See* First
 15 Amended Complaint, at Silk Dec., **Exhibit 8**, Paragraphs 3.25 to 3.36 and Paragraphs 4.1
 16 through 4.29. Although Plaintiffs' First Amended Complaint does not allege a specific
 17 amount of judgment that it seeks seek against the Defendants, it does allege that the Plaintiff
 18 has demanded \$456,000 in business interruption coverage and payment of Plaintiff's
 19 attorney's fees, in addition to the remaining policy limits. *See* First Amended Complaint, at
 20 Silk Dec., **Exhibit 8**, Paragraph 3.35. In its Prayer, the Plaintiff seeks a trebling of actual
 21 damages under the CPA and under IFCA. *Id.*, at 12: 3-6.

22 b. In its First Amended Complaint, the Plaintiff seeks attorneys' fees
 23 under its CPA and IFCA claims. *See* First Amended Complaint, at Paragraphs 4.19, 4.29.

When attorney fees are sought by statute, they are included for calculating whether a plaintiff's claims meet the amount in controversy requirement. *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696, 700 (9th Cir. 2007) ("Section 1332(a)'s amount-in-controversy requirement excludes only "interest and costs" and therefore includes attorneys' fees."). If Plaintiff prevails in the lawsuit, Plaintiff will seek attorney fees under the CPA and RCW 48.30.015. Based on standard attorney fee rates and the amount of time required to bring a lawsuit, such fees through a trial will more likely than not exceed \$75,000.00.

7. Adding together the amount claimed for: (1) actual damages; (2) statutory attorney fees under the WCPA and RCW 48.30.015; and (3) treble damages under the WCPA and RCW 48.30.015, the amount in controversy in this action clearly exceeds \$75,000.

8. The Defendants will give written notice of the filing of this Notice of Removal to all attorneys of record and to the Clerk of the Superior Court of Snohomish County, Washington, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendants request that this action be removed to the United States District Court for the Western District of Washington at Seattle.

DATED this 10th day of October, 2022.

s/ John M. Silk

John M. Silk, WSBA #15035

s/ Sarah L. Eversole

Sarah L. Eversole, WSBA #36335

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Attorneys for Defendants



1 **CERTIFICATE OF ELECTRONIC SERVICE**

2 I hereby certify that on the date set forth below, I electronically filed the foregoing
3 with the Clerk of the Court using the CM/ECF system, which will send notification of such
4 filing to those attorneys of record registered on the CM/ECF system. All other parties (if any)
shall be served in accordance with the Federal Rules of Civil Procedure.

5 **Attorney for Plaintiff**

6 Thomas Lether

7 Ryan Bisel

8 Lether & Associates, PLLC

9 1848 Westlake Ave. N., Suite 100

10 Seattle, WA 98109

11 () Via U.S. Mail

12 () Via Facsimile: 206-467-5544

13 () Via Hand Delivery

14 (X) Via Email: tlether@letherlaw.com; rbisel@letherlaw.com

15 SIGNED this 10th day of October, 2022, at Seattle, Washington.

16 *s/ Traci Jay* _____

17 Traci Jay